



BASSFORD REMELE

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September 26, 2018

VIA ECF

The Honorable Susan Richard Nelson
United States District Court
100 Federal Building
316 North Robert Street
St. Paul, MN 55101

Re: *In re: NHL Players' Concussion Injury Litigation - Bellwether Trial Selection Proposal*
Court File No.: MDL No. 14-2551 (SRN)

Dear Judge Nelson:

In accordance with the Court's instructions at the status conference on August 30, 2018, the Plaintiffs' Executive Committee (the "PEC") submits the attached proposal regarding selection of bellwether trials to be conducted in this case.

The PEC and the NHL conferred on numerous occasions, and reached consensus on the general structure of a process. That general structure included agreements that an initial set of cases would be chosen by each side from the pool of cases directly filed in Minnesota; the parties would confer regarding jurisdictional or venue issues and raise any irreconcilable differences with the Court by motion; mutual fact discovery would be conducted on certain cases at some point after jurisdictional challenges had been resolved; a process of narrowing the field of potential cases would ensue thereafter; and each side would have a strike to be exercised before the final group of four cases were submitted to the Court for a determination of the order of trials and issuance of necessary pre-trial scheduling orders.

Unfortunately, despite numerous conferences over many days, agreement could not be reached as to the specifics of the competing proposals.

From the Plaintiffs' perspective, the NHL's proposal places unnecessary burdens on the parties by identifying an excessive number of cases up front and requiring extensive discovery to be performed for all of those cases even though most of them would not be in the final pool of bellwether cases. Further, the NHL proposal is unwieldy and confusing in attempting to address

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every possible contingency related to the potential dismissal of cases, and it seeks to impose punitive sanctions in such an event.

The PEC believes its proposal sets forth a workable protocol that reflects the Court's stated goals to focus discovery only on the cases that may get tried, to avoid unnecessary delay and costs, and to quickly prepare trials so that the first such trial may be scheduled for the spring or summer of 2019.

The PEC respectfully requests that the Court schedule an informal status conference to discuss these matters further. Thank you.

Respectfully,

Jeffrey D. Klobucar
for

BASSFORD REMELE, *a Professional Association*

JDK
Enclosure

cc: All Counsel (via ECF)